

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN CARLOS FLORES,)
)
 Plaintiff,)
)
 v.) 1:14CV825
)
 C.O. WHITMIRE, et al.,)
)
 Defendants.)

**ORDER AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on Defendant Sampson Harrell, M.D.'s¹ Motion to Dismiss for failure to prosecute based upon Plaintiff's failure to provide a forwarding address, file any documents, pay the balance of the filing fee, or provide any other indication that he intends to pursue this case. (Docket Entry 26.) No response was filed.

The undersigned does find that Plaintiff failed to provide a forwarding address, yet finds no basis for Defendant Harold's other arguments to support his motion to dismiss. Plaintiff had not been ordered by the Court to perform any of the other bases set forth by Defendant Harold as grounds for dismissal.

Plaintiff had been incarcerated at the time the Complaint was filed in this case. On July 30, 2015, Plaintiff filed a document whereby Plaintiff indicated that he was released by the Harnett Correctional Institution on December 9, 2014 and that the papers regarding this

¹ Defendant Sampson Harrell, M.D. is incorrectly named in the Complaint as "Dr. Harold."

case were never forwarded to him.² (Docket Entry 30.) Plaintiff seeks to update his address and seeks copies of the documents in this case. Based upon Plaintiff's recent filing with the Court, it appears Plaintiff desires to continue prosecuting his case.

Based upon the forgoing and in the interest of justice,

IT IS HEREBY RECOMMENDED that Defendant Harold's Motion to Dismiss (Docket Entry 26) be **DENIED**.

IT IS HEREBY ORDERED that Plaintiff's motion (Docket Entry 30) be **GRANTED**. To this extent, the Clerk shall provide Plaintiff with a copy of the documents filed in this case.



Joe L. Webster
United States Magistrate Judge

August 12, 2015
Durham, North Carolina

² This document has been construed as a motion.